



European Parliament

Committee on Civil Liberties, Justice and Home Affairs
The Chairman

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CONFIDENTIAL

Mr Antonio TAJANI
Chair of the Conference of Committee Chairs
PHS 08B043
BRUSSELS

D 313290 09.10.2019

Subject: Evaluation following the hearing of Ylva JOHANSSON, Commissioner-designate for Home Affairs, and receipt of additional information

Dear Chair TAJANI,

The Committee on Civil Liberties, Justice and Home Affairs (LIBE), in accordance with Rule 125 of the Rules of Procedure of the European Parliament, held a public hearing on Tuesday, 1 October 2019 with Ylva Johansson, Commissioner-designate, who, subject to the positive outcome of the nomination procedure, will be responsible for Home Affairs.

Preparation of this hearing

On 27 September 2019 the Committee Civil Liberties, Justice and Home Affairs, pursuant to Rule 125 of the Rules of Procedure and Article 2 of Annex VII thereto, received the letter by the JURI Committee regarding the scrutiny of the declaration of financial interests of Ms Johansson according to which the Committee on Legal Affairs raises no objection to the holding of the hearing of the Commissioner-designate in question.

Prior to the hearing, Parliament had sent the Commissioner-designate a list of written questions. The committee noted that Ms Johansson answered those questions satisfactorily although some replies were of a general nature and some specific questions asked by the LIBE Committee were not fully answered.

As regards the proposed structure of the Commission, Ms Johansson's written replies, to be seen together with those provided by Mr Schinas (Vice-President-designate for Protecting our European Way of Life), explain that she "will work closely" with the Vice-President-designate, while the "Vice-President will be providing guidance and coordination" for the Home Affairs portfolio as well as other portfolios. Mr Schinas in his written replies states that "the role of Vice-President is to steer and to coordinate". The relation therefore seems to be envisaged to be a hierarchical one. The Committee considers that this envisaged structure risks to complicate scrutiny of the future Commission and calls upon the Commissioners-designate to ensure transparency and accountability towards Parliament as to who assumed responsibility for certain decisions and who would be the main interlocutor for specific legislative files and topics.

The course of the hearing

Ms Johansson opened the hearing by making a statement. In that statement, she provided Members with some background on her political career in Sweden including about her position as government coordinator of the migration and integration situation in Sweden in 2015. She also summarised the key principles, which would underline her work as Home Affairs Commissioner. She stressed the importance of EU values and that migration should not be seen as a threat to security. She stressed that everybody in Europe should have the freedom to live in a society under the rule of law in the knowledge that public authorities are doing everything in their power to protect them. She also referred to the importance of not jeopardising freedom through the security measures that are taken with the objective to protect freedom, the need for compromise and collaboration, values as guiding principles, and her intention to always speak up for human rights.

As regards the security area, she outlined that her aim would be to ensure effective implementation of the legislation in place and to close remaining gaps in building an effective Security Union. Organised crime, drugs, human trafficking, child sex abuse and exploitation are all major priorities for the Commissioner-designate. She promised to be the strongest advocate for victims and declared her intention to close down the space for terrorists to act and fight all forms of radicalisation. She praised the work of the special committee on terrorism (TERR) and declared that its recommendations will guide her in her work. Finally, she stressed the need for better law enforcement cooperation.

As regards the asylum and migration area, she stated that she had a clear mission from the President-elect to propose a New Pact on Migration and Asylum. In order to do so she declared her intention to listen carefully, to take a holistic approach by looking at all aspects of migration policies, to build on the work undertaken by Parliament during the previous term, to see solidarity and responsibility as guiding principles, and to close loopholes between asylum and return. She also considered that more would need to be done to step up resettlement, legal and safe pathways, and to develop humanitarian corridors. Finally, she stated that a crucial element for the New Pact would be a more sustainable, reliable and permanent approach to Search and Rescue to which the fight against smugglers and traffickers would be linked. As regards the Schengen area, she described as a key objective the swift return to a fully functioning Schengen area without internal border controls.

The introductory statement of Ms Johansson was followed by a first round of seven questions from representatives of each political group and a second round of 18 questions by Members, including also a representative from the non-attached Members.

During the course of the hearing, questions were raised on the entire Home Affairs portfolio.

Ms Johansson proposed a fresh start on migration and asylum through a New Pact on Migration and Asylum, but she could not say, yet, how this would look like or how it could be achieved. Her aim is to reach the broadest possible convergence on the difficult issues on the table. In this framework, the existing reform proposals will be reassessed and could be reconsidered. She said that there is a role for the Commission to support temporary arrangements among Member States to disembarkation and relocation, like the Malta Declaration, and to facilitate when it comes to search and rescue. She said that humanitarian assistance should not be criminalised and that she was ready to look more closely into the Parliament's request for clarifying guidelines. With regard to trafficking, she points out that this is also an EU internal problem as half of the victims are European citizens. She indicated her readiness to consider new legislative proposals and a

new strategy for fighting trafficking. In close cooperation with the Vice-President Schinas and VP/HR Borell, the Commissioner-designate will continue building partnerships with third countries in a mutually beneficial manner and in full respect for fundamental rights.

The protection of children should be strengthened and the application of legal safeguards concerning migrant children should be further monitored. The Commissioner-designate will continue to assist migrants and refugees in Libya and cooperate to this end with the United Nations and the African Union with a view to close all detention centres and to avoid that migrants get on the boats.

As regards the Schengen area, she qualified the return to a fully functioning Schengen area without internal borders as a key priority. Asked about the option to start infringement procedures, she replied that these should not be the first step which should rather be dialogue. To do so she indicated that she would ensure implementation of the current Schengen rules, reflect on steps that may be taken by Member States short of the reintroduction of internal border control and reassess the proposed amendment to the Schengen Borders Code. As a further top priority, she mentioned the swift implementation of the revised European Border and Coast Guard Regulation. She also indicated her intention to monitor closely the development of the new large-scale IT systems (ETIAS, EES) to be deployed at the border and the implementation of interoperability.

In the area of internal security, Ms Johansson replied that she would aim to further improve cooperation and exchange of information between law enforcement authorities and to build trust. She explained the importance of the fight against radicalisation that has to be tackled in a holistic approach in each Member State, but the EU can help by offering expertise in this area. Concerning returning foreign terrorist fighters, she said it is a decision for each Member State, but the Commission can help to facilitate cooperation so that people can really be brought to court and be punished for their terrorist actions. On the issue of encrypted communications she pointed out to the need of finding the right balance between security and privacy and fundamental rights that have to all be respected. During her mandate, the Europol Regulation would be evaluated and depending on the outcome of the evaluation, updates to the Regulation may be necessary. She proposed to continue the dialogue on how to ensure adequate funding for Europol.

In her replies, Ms Johansson made specific commitments regarding her future action as Commissioner:

- to ensure that fundamental rights, including the right to protection of personal data, are embedded in the design of any future legislation and all actions;
- to ensure gender mainstreaming and implement measures and tools for gender budgeting and assessing gender impacts;
- to fully respect the provisions of the 2010 Framework Agreement and the 2016 Interinstitutional Agreement on Better Law-Making;
- to make herself available to take part in "all relevant committee meetings and trilogue discussions", to appear before the Committee "whenever called to answer a question or provide any particular response", and to "appear regularly" "at least twice a year" "including in the context of the regular Security dialogues" as declared in her written responses;

- to regularly inform and involve the Parliament, including as regards cooperation with third countries.

In her closing statement she stressed her intention to work closely with the LIBE Committee, which she qualified as highly competent, if confirmed as Commissioner. She referred to the high expectations of citizens in the area of migration and security and committed to deliver on their agenda while respecting the values of the EU and fundamental rights. She reconfirmed several of her statements made earlier in her written and oral replies.

Evaluation

On the basis of the responses to the Members present at the hearing, as well as the comments made by the LIBE Coordinators, who met in camera after the hearing under my chairmanship, I hereby give the following assessment:

General competence, European commitment, personal independence, communication skills

Ms Johansson is an experienced candidate who has held several ministerial positions in the Swedish government. There are no doubts as regards her professionalism, integrity and independence. She has also convincingly shown her commitment towards European integration. During her hearing, she was able to communicate clearly and to take positions on policy issues to be addressed within the Home Affairs portfolio.

LIBE Coordinators welcomed the commitments made.

Knowledge of the Home Affairs portfolio

LIBE Coordinators consider that Ms Johansson has also demonstrated her aptitude to assume the portfolio of Home Affairs Commissioner although in several cases she has indicated that she would further examine the question posed and come back before the committee at a later stage. In her written and oral replies she showed a clear understanding of current challenges but only in certain cases indicated possible solutions.

LIBE Coordinators welcomed her commitment to a holistic approach to migration. They, however, considered that - while aiming for the broadest possible convergence in asylum and migration is to be welcomed - it is ultimately the Treaty provision with qualified majority voting in the Council to adopt legislation that are to be applied. They regret that the Commissioner-designate has not more clearly defended the Treaty-based view.

LIBE Coordinators appreciated the expressed will to build legal and safe pathways to the EU, an EU approach to search and rescue, her willingness to strengthen return of irregular migrants and to ensure that humanitarian assistance is not criminalised.

LIBE Coordinators welcomed her indication to make the return to a fully functioning Schengen area without internal borders a priority.

LIBE Coordinators welcomed her commitment towards building an effective Security Union, ensuring the correct application of Union law in the area of security by all means, including

infringement proceedings, where necessary, and embedding fundamental rights in the design of any future legislation.

Cooperation with the European Parliament

LIBE Coordinators welcomed Ms Johansson's commitment to work with the Parliament and the Council on equal footing.

LIBE Coordinators welcomed Ms Johansson's commitment to fully respect the provisions of the 2010 Framework Agreement and the 2016 Interinstitutional Agreement on Better Law-Making, and expect that in the future all important Commission proposals are accompanied by an impact assessment and that the reporting requirements set for the Commission in relevant legislation will be met fully and in time.

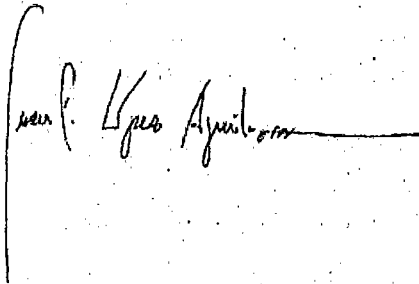
LIBE Coordinators welcomed the commitment of the von der Leyen Commission to support a right of initiative for the European Parliament. We expect all Commissioners to honour that commitment fully.

LIBE Coordinators expect that implementation reports on existing asylum and migration legislation are issued by the Commission.

LIBE Coordinators during the first evaluation meeting convened after the hearing did not reach a majority representing two-thirds of the committee membership to approve the candidate and consequently decided to request additional information through further written questions according to Article 4(4)(d) 1st indent of Annex VII of the Rules of Procedure.

Following the additional information provided by the Commissioner-designate at their evaluation meeting of 8 October, the coordinators representing a majority of two-thirds of the committee membership approved that the Commissioner-designate Johansson is qualified both to be a member of the College of Commissioners and to carry out the specific tasks assigned.

Yours sincerely,



Juan Fernando LÓPEZ AGUILAR

cc: David Maria Sassoli, President
Legislative Coordination Unit